

REMARKS

Upon entry of the present Amendment the Claims under consideration are 1-22, 24-38, 40-46 and 48-49. Claims 23, 39, and 47 have been canceled. Claims 24-26 have been amended to change their dependency. The preambles of Claims 20-22 and 24-34 have been amended for consistency. The Detailed Action of 23 February 2005 will now be addressed with reference to the headings and any paragraph numbers therein.

Examiner Interview Summary

Applicants' undersigned attorney spoke with Examiner Pierce on 09 May 2005. The § 112 rejections were discussed. Applicants' undersigned attorney suggested, and the Examiner agreed, that the Claims which have several alternatives of webs could be amended with Markush language to remove the § 112 rejections and more clearly claim the invention. No agreement was reached with respect to the allowability of any claims. The Applicants' attorney thanks the Examiner for the courtesy shown him during the interview.

Claim Rejections -35 USC § 112

Per paragraph 2 of the Detailed Action, Claims 2-9 and 20-49 stand rejected under 35 USC § 112 (first paragraph) as failing to comply with the enablement requirement because: "There is no discernable trend between these values and the specification does not teach a person having ordinary skill in the art why a web when it has a certain weight or bulk, would then have the claimed formation index..."

This rejection is respectfully traversed, particularly in view of the above amendments and the remarks herein.

Concerning enablement, the person having ordinary skill in the art is given the necessary information for understanding and practicing the claimed inventions by the present specification at least at page 3, lines 5-22 (discussion of formation index value); page 8, lines 12-19 (definition of "formation index"); page 19, lines 21+ (description of formation index test procedure); and page 30, line 29 through page 32 (broad discussion of formation index); as well as the teachings of exemplary processes and materials for webs meeting the present claims at pages 10-15 and numerous examples of webs produced according to the

present invention starting at page 23. Discussion of contrasting webs within the known art which do not meet the present invention is further included, such as at page 21, line 12, for the edification of the person of ordinary skill in the art. Therefore, a person of ordinary skill in the art is enabled to practice the present invention.

While the Applicants have amended the Claims to overcome the § 112 rejections, should the Examiner maintain the present § 112 rejections on the present basis, Applicants reserve the right to argue that there is no statutory requirement within § 112 for discernible trends within a patent application or a claim, or required explanations of why an invention functions to meet the limitations of a claim; or requirements of predictability in the description and claims of an invention. The Examiner is invited to call Applicants' undersigned attorney for further discussion of any formal language concerns in defining the present invention.

It is therefore respectfully requested that the present rejections be reconsidered and withdrawn.

Per paragraph 4 of the Detailed Action, Claims 2-9 and 20-49 stand rejected under 35 USC § 112 (second paragraph) as failing to particularly point out and distinctly claim the invention because: "...it is unclear how a nonwoven material can have two or more different bulk values or two or more different basis weights. For example, claim 9 recites the web weighs 6 osy (line 3), and then recites the web has a weight of 2.5 osy (line 5)."

This rejection is respectfully traversed, particularly in view of the above amendments and the remarks herein.

The Claims to a material which list more than two basis weights or bulk values have been placed in the permissible claim form of a Markush group, per the above-cited discussion with the Examiner. Therefore, the subject matter of each claim is particularly pointed out and distinctly claimed.

It is therefore respectfully requested that the present rejections be reconsidered and withdrawn.

Claim Rejections -35 USC §102/103

Per paragraph 7 of the Detailed Action, Claims 1-15, 19-30, and 34-49 are rejected as anticipated by, or in the alternative obvious over, Pike et al. (US 5,382,400, hereinafter "Pike").

This rejection is respectfully traversed, particularly in view of the above amendments and the remarks herein.

It is the contention of the Detailed Action that a material according to Pike would inherently meet (or make obvious) the limitations of the present claims. “Support for said presumption is found in the use of similar materials ... and in the similar production steps ... used to produce the nonwoven fabric.”

However, without implication as to the meaning or breadth of claims in Pike, it is respectfully submitted that the Examiner’s presumption of obviousness or inherency of resultant properties fails because no sufficient similarity in process can reasonably be attributed to Pike in comparison to the present invention. Notable among the differences of process between Pike and the present invention, Pike teaches a “Hot FDU” production of the fibers (see col. 8, line 12) and does not teach a cold FDU production of the fibers as taught for the webs of the present invention. Examples of Hot FDU production such as used in Pike are further included within the Examples 14-20 and Tables 2 and 3 and contrasted with the present invention. Thus, webs made according to Pike are unlikely to have a formation index value meeting the present claim limitations (see also, for example, the discussion at page 31, line 15 of the current specification).

It is therefore respectfully requested that the present rejections be reconsidered and withdrawn.

Claim Rejections -35 USC §103

Per paragraph 8 of the Detailed Action, Claims 16-18 and 31-33 are rejected as obvious over Pike in view of Sudduth et al. (US 5,770,531, hereinafter “Sudduth”).

This rejection is respectfully traversed, particularly in view of the above amendments and the remarks herein.

It is the contention of the Detailed Action that while Pike does not teach adding titanium dioxide to fibers, per the present Claims, Sudduth supplies this missing teaching.

Applicants respectfully submit that a *prima facie* case of obviousness has not been made because the Examiner’s conclusion of Pike’s inherent teaching, per the above discussion, has been refuted.

Double Patenting

Applicants acknowledge the provisional double patenting rejection as made by the Examiner at paragraph 10 of the Detailed Action. Applicants will address the substance of

the double patenting rejection or file a terminal disclaimer at such time as allowable subject matter is indicated.

Conclusion

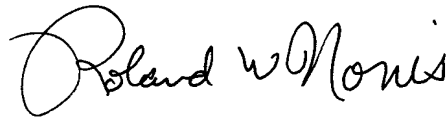
In light of all the foregoing amendments and discussion, the Claims as presently presented are believed to be allowable over the art of record. A notice to that effect is earnestly solicited.

Request For Telephonic Interview

The Examiner is requested to call Applicants' attorney (per the provisions of M.P.E.P. § 713) to discuss any further problems or suggest solutions in defining the present invention in order to expedite the case towards allowance before issuing a further Office Action.

Favorable consideration is requested.

Respectfully submitted,



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